IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I.T.R. No.107 of 1997
Date of Decision:10.11.2006

Commissioner of Income Tax, Patiala

.....Petitioner

Vs.

M/s Jyoti Chemicals & Fertilisers, Samana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Dr. N.L.Sharda, Advocate for the petitioner.

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JUDGMENT

The following question of law has been referred for opinion of this Court arising out of order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh in I.T.A. No.702/Chandi/1991 dated 3.2.1997 in respect of assessment year 1984-85:-

> "Whether, on the facts and in the circumstances of the case,the ITAT was right in law in deleting the addition of Rs.52,048/- on the ground that since the assessee firm maintained complete account books and the Assessing Officer had not found any defect, there was no question of estimating the cost of construction of the building in question?"

During the assessment year in question, the Assessing Officer made additions of Rs.62,048/- to the income of the assessee on account of alleged unexplained investments in the construction of godown. Finding the investment to be not correct, the Assessing Officer referred the matter to the Departmental Valuation Officer and found that the estimate made by the Departmental Valuation Officer was Rs.3,58,600/- as against Rs.2,91,552/-

declared by the assessee. The Assessing Officer himself allowed the relief of Rs.5,000/- and made additions of Rs.62,048/- in the income of the assessee as investment on account of unexplained investments. In appeal against the order before Deputy Commissioner of Income Tax (Appeals), the Appellate Authority found that there were discrepancies in the assessment of value of the property by the Departmental Valuation Officer and a further relief to the extent of Rs.10,000/- was granted to the assessee. In further appeal by the assessee before the Tribunal, even the balance addition of Rs.52,048/- was also deleted.

Learned counsel appearing for the revenue has not been able to point out any material on record to justify the addition merely on the basis of report of the Departmental Valuation Officer in which initially even the Assessing Officer had applied a cut and later even the First Appellate Authority while pointing out various discrepancies had allowed additional cut. There being no concrete evidence on record to justify the additions on account of unexplained investments, and further the Assessing Officer having not found any defect in the books of accounts maintained by the assessee, in our view, the Tribunal was right in deleting the additions on account of alleged unexplained investments in the construction of the godown merely on the basis of the report of the Departmental Valuation Officer.

Accordingly, the question is answered against the Revenue and in favour of the assessee.

(RAJESH BINDAL)
JUDGE

November 10, 2006 **(AJAY KUMAR MITTAL)**
renu **JUDGE**